



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 8

FURTHER ADJUSTMENTS

Other adjustments

216 Election where assets and liabilities adjusted to fair value for tax purposes

- (1) **This section** applies to a member of a multinational group if the filing member has made an election under **this section** in respect of a relevant tax adjustment made in an accounting period (“the adjustment period”) in relation to that member.
- (2) A “relevant tax adjustment” is an adjustment to the value of assets or liabilities of a member of a multinational group for tax purposes so that they reflect fair value that is required or permitted, under the law of the territory the member is located in, as a result of the occurrence of an event.
- (3) But adjustments made in connection with transfer pricing, or in connection with the sale of assets in the course of carrying on a trade, are not relevant tax adjustments.
- (4) Where **this section** applies to the member—
 - (a) the member has an adjustment amount in respect of each asset or liability that is subject to the relevant adjustment, and
 - (b) the value of an asset or liability subject to the relevant adjustment is to be treated, for the purpose of determining the member’s adjusted profits in the adjustment period and subsequent accounting periods, as its fair value immediately after occurrence of the event that caused, or enabled, the adjustment to be made.

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- (5) An adjustment amount is to be—
- (a) included in the adjusted profits of the member for the adjustment period, or
 - (b) split into 5 equal amounts to be included in the adjusted profits of the member in that period and the subsequent 4 accounting periods.
- (6) But where the adjustment amount is split between those accounting periods and the member leaves the multinational group before the end of the 4th subsequent accounting period, any amount of the adjustment amount that has not been included in the adjusted profits of the member for a previous accounting period is to be included in the adjusted profits of the member for the final accounting period in which it was a member of the group.
- (7) The adjustment amount of a member of a multinational group in respect of an asset or liability subject to a relevant adjustment is the amount given by—
- (a) subtracting the carrying value of the asset or liability immediately before the event that caused, or enabled, the adjustment to be made from the fair value of the asset immediately after occurrence of that event, and
 - (b) if that event resulted in a non-qualifying gain or loss (within the meaning given by [section 210\(2\)](#)) for the member—
 - (i) in the case of a non-qualifying gain, reducing the result of paragraph (a) by the amount of that gain, or
 - (ii) in the case of a non-qualifying loss, increasing the result of paragraph (a) by the amount of that loss.
- (8) [Paragraph 2 of Schedule 15](#) (annual elections) applies to an election under this section.

217 Post filing adjustments of covered taxes

- (1) [This section](#) applies where, in an accounting period (“the current period”), the liability of a member of a multinational group to covered taxes for a prior accounting period (“the prior period”) as reflected in an information return, overseas information return or self-assessment return (see [Schedule 14](#)) has increased or decreased.
- (2) [Subsection \(4\)](#) applies where—
- (a) that liability has increased, or
 - (b) that liability has decreased and the decrease is to be treated as insignificant.
- (3) [Subsection \(5\)](#) applies where that liability has decreased, unless the decrease is to be treated as insignificant.
- (4) Where [this subsection](#) applies, the covered tax balance of the member for the current period is to be adjusted so as to reflect the amount of that increase or decrease if not already reflected in that balance.
- (5) Where [this subsection](#) applies—
- (a) the following are to be recalculated for the prior period to take account of the decrease—
 - (i) the effective tax rate for the member and the other members of that group located in the same territory,
 - (ii) the top-up amounts that those members would have, and

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- (iii) if the liability to covered taxes has decreased because of a reduction of the member's profits, its adjusted profits but only to the extent necessary to prevent the effective tax rate from decreasing,
 - (b) the adjusted profits of those members in subsequent accounting periods are to be adjusted in consequence of the decrease, and the matters referred to in [paragraph \(a\)](#) recalculated accordingly, and
 - (c) if the amount of the decrease is reflected in the covered tax balance of the member for the current period, that balance is to be adjusted to exclude it.
- (6) [Section 206](#) applies to a recalculation under [subsection \(5\)](#).
- (7) Where [subsection \(5\)](#) applies in relation to a decrease in liability to covered taxes that arises as a result of the member offsetting a loss in a later accounting period against profits in the prior period, the member is treated for the purposes of this Part—
 - (a) as having a deferred tax asset that arises in the later period that is equal to the amount offset multiplied by the lesser of—
 - (i) 15%, and
 - (ii) the tax rate that applied to the profits the amount was offset against, and
 - (b) as having used that asset in the prior accounting period.
- (8) For the purposes of [this section](#), a decrease of liability is to be treated as insignificant if—
 - (a) the aggregate decrease in liability for covered taxes for the prior period is less than 1 million euros, and
 - (b) the filing member has made an election for decreases in the prior period to be treated as insignificant.

[Paragraph 2](#) of [Schedule 15](#) (annual elections) applies to an election under [this subsection](#).

218 Effect of rate changes to deferred tax expense

- (1) Where—
 - (a) the rate of tax for a member of a multinational group changes in an accounting period,
 - (b) the change in rate is to some extent relevant, and
 - (c) the effect of the rate change would reduce the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,

[section 217](#) applies to so much of that reduction as reflects the extent of the change in rate that is relevant as it applies to a decrease in liability to covered taxes.
- (2) Where—
 - (a) the rate of tax for a member of a multinational group changed in a previous accounting period,
 - (b) the change in rate is to some extent relevant,
 - (c) the member's deferred tax expense for the current accounting period reflects the reversal of deferred tax assets or liabilities that were recognised in an accounting period prior to the rate change at a different rate, and

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- (d) the effect of the rate change would increase the member's covered tax balance in a previous accounting period if the deferred tax expense in that period were recalculated to take account of the change in the rate,
[section 217](#) applies to so much of that increase as reflects the extent of the change in rate that is relevant as it applies to a increase in liability to covered taxes.
- (3) For the purposes of [subsections \(1\) and \(2\)](#), a change of a rate of tax is relevant to the extent that—
 - (a) in the case of a rate that is increasing, it reflects an increase from below 15% to the lesser of—
 - (i) the rate it is changed to, and
 - (ii) 15%, and
 - (b) in the case of a rate that is decreasing, it reflects a decrease from the lesser of—
 - (i) the previous rate, and
 - (ii) 15%.

219 Adjustment where covered taxes not paid

- (1) Where an amount of current tax expense included in the covered tax balance of a member of a multinational group for an accounting period is not paid before the end of the period of 3 years commencing with the last day of that accounting period, the following are to be recalculated excluding that amount—
 - (a) the effective tax rate for the member and the other members of that group located in the same territory, and
 - (b) the top-up amounts that those members would have.
- (2) But [subsection \(1\)](#) does not apply unless the total of amounts included in the covered tax balance for that accounting period which are not paid before the end of that 3 year period exceeds 1 million euros.
- (3) [Section 206](#) applies to a recalculation under [subsection \(1\)](#).